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Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization
16-24 February 2016

Draft report

Rapporteur: Nadia Alexandra **Kalb** (Austria)

II. Maintenance of international peace and security

D. Consideration of the revised working paper submitted by Belarus and the Russian Federation

1. During the general exchange of views held at the 281st and 282nd meetings of the Special Committee, on 16 and 17 February 2016, and at the 2nd meeting of the Working Group of the Whole, the Special Committee considered the further revised working paper submitted by Belarus and the Russian Federation at the 2014 session of the Special Committee (see A/69/33, para. 37), in which it was recommended, inter alia, that an advisory opinion should be requested from the International Court of Justice as to the legal consequences of the resort to the use of force by States without prior authorization by the Security Council, except in the exercise of the right to self-defence.

2. One of the sponsors of the proposal recalled the background to the proposal and highlighted the continued relevance of the subject matter of the revised working paper and its value in providing a common understanding of the legal consequences of the resort to the use of force by States without prior authorization by the Security Council. The sponsor delegation expressed its regret that the proposal, which had been initially introduced at the 1999 session of the Special Committee (see A/54/33, para. 90), had not yet achieved consensus. The sponsors favoured retaining the proposal on the agenda of the Special Committee.

3. Several delegations reiterated their support for the proposal and its further consideration. It was stated that the proposal remained topical, and pointed out that an advisory opinion by the International Court of Justice would contribute to clarifying the provisions of the Charter regarding the use of force. It was also pointed out that previous pronouncements of the International Court of Justice had provided guidance on only some aspects.

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4. Several other delegations reiterated that they could not support the proposal. It was noted that the International Court of Justice had previously had the opportunity to pronounce itself on the legal principles applicable to the use of force, and since existing international law was sufficiently clear, a further advisory opinion would add little value. The Special Committee was called upon to consider removing the proposal from its agenda.